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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Emerick, et al. : Date: November 12, 2007  
Serial No.: 09/865,371 : Group Art Unit: 2643  
Filed: May 25, 2001 : Confirmation No.: 6848  
For: METHOD AND APPARATUS : Examiner: Q. Tran  
UPGRADE ASSISTANCE USING  
CRITICAL HISTORICAL PRODUCT  
INFORMATION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT  
INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)**

1. This request for reconsideration of the patent term adjustment indicated in the Notice of Allowance mailed on November 1, 2007.  
☒ The issue fee is being paid as set forth in the papers attached hereto.
2. Applicant submits herewith a "Statement of the Correct Patent Term Adjustment: Basis(es) Under § 1.702 For the Adjustment--Part B." T(37 C.F.R. § 1.705(b)(2)(i) and (ii)).
3. Any patent granted on this application (37 C.F.R. § 1.705(b)(2)(iii)):  
☒ is not subject to a terminal disclaimer.  
☐ is subject to a terminal disclaimer, and the expiration date specified in the terminal disclaimer is \_\_\_\_\_.

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4. As to circumstances during the prosecution of this application constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in § 1.704 (37 C.F.R. § 1.705(b)(2)(iv)):

☐ there were none (37 C.F.R. §1.705(b)(2)(iv)(B)).

☒ these were as follows (37 C.F.R. § 1.705 (b)(2)(iv)(A)):

Applicant filed its response to the 3/11/04 Office Action on July 7, 2004.

Applicant filed its response to the 10/28/2005 Office Action on January 30, 2006.

5. The fee set forth in § 1.18(e) (\$200.00), required by 37 C.F.R. § 1.705(b)(1), is paid as follows:

☐ Attached is a ☐ check ☐ money order in the amount of \$\_\_\_\_\_.

☒ Authorization is hereby made to charge the amount of \$200.00

☒ to Deposit Account No. 09-0465

☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of his paper is attached.

Date: 11/20/07

Respectfully submitted,

By 

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Attached hereto is/are:

☒ Statement of the Correct Patent Term Adjustment: Basis(es) Under § 1.702 For the Adjustment." (37 C.F.R. § 1.705(b)(2)(i) and (ii)) -- Part B.

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**Statement of the Correct Patent Term Adjustment: Basis(es) Under § 1.702  
For the Adjustment.” (37 C.F.R. § 1.705(b)(2)(i) and (ii))**

Applicants filed the above-identified application on 5/25/2001. The USPTO issued a first notification under 35 U.S.C. § 132 on 3/11/2004. Because this term is greater than 14 months, Applicants are entitled to a patent term adjustment of 595 days by 37 C.F.R. § 1.702(a)(1).

Applicants filed the above-identified application on 5/25/2001. The USPTO issued a Notice of Allowance on 11/01/2007, which suggests that the resulting patent will issue on 5/1/2008. Because this pendency will be greater than three years, Applicants are entitled to a patent term adjustment of 1437 days by 37 C.F.R. § 1.702(b).

In view the delay in issuing the first notification and/or the long pendency of the above-identified Application, Applicants are entitled to a total positive term adjustment of 1437 days.